IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 30TH JANUARY 2007 / 10TH MAGHA 1928

WP(C).No. 17499 of 2006(G)

PETITIONER:

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1. MANAGER,
   MAR THOMA COLLEGE, TIRUVALLA.

2. DR. ABRAHAM GEORGE,
   PRINCIPAL (SPECIAL GRADE),
   MAR THOMA COLLEGE, TIRUVALLA.

BY ADV. SRI.BABY ISSAC ILLICKAL
SRI.THOMAS JAMES MUNDACKAL

RESPONDENTS:

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1. DIRECTOR OF COLLEGIATE EDUCATION,
   THIRUVANANTHAPURAM.

2. DEPUTY DIRECTOR OF COLLEGIATE
   EDUCATION, KOTTAYAM.

3. MAHATMA GANDHI UNIVERSITY REPRESENTED
   BY ITS REGISTRAR, KOTTAYAM.

4. PRINCIPAL SECRETARY TO GOVERNMENT,
   HIGHER EDUCATION DEPARTMENT,
   GOVERNMENT SECRETARIAT,
   THIRUVANANTHAPURAM.

R1,R2 & R4 BY G.P. SMT. BINDU
R3 BY SRI.V.A.MUHAMMED, SC, M.G.UNIVERSITY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30/01/2007, ALONG WITH WPC NO. 20081 OF 2006 WPC NO. 28164 OF 2006 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS' EXHIBITS:

EXT. P1 PHOTOCOPY OF THE APPOINTMENT ORDER DATED 1.4.2001 OF THE 2ND PETITIONER.

EXT.P2 PHOTOCOPY OF A ORDER DATED 24.2.2003 OF THE THIRD RESPONDENT.

EXT.P3 PHOTOCOPY OF THE APPOINTMENT ORDER OF N.M. MATHEW AS PRINCIPAL DATED 27.3.2006

EXT.P4 PHOTOCOPY OF THE INTERIM ORDER DATED 29.3.2006 IN I.A.NO. 7 OF 2006 IN APPEAL NO. 3 OF 2006

EXT.P5 PHOTOCOPY OF A LETTER DATED 31.3.2006 ADDRESSED TO THE THIRD RESPONDENT.

EXT.P6 PHOTOCOPY OF A LETTER DATED 3.6.2006 BY THE THIRD RESPONDENT.

EXT.P7 PHOTOCOPY OF A LETTER DATED 21.6.2006 ADDRESSED TO THE THIRD RESPONDENT.

EXT.P8 PHOTOCOPY OF A LETTER DATED 24.6.2006 ADDRESSED TO THE THIRD RESPONDENT BY THE 2ND RESPONDENT.

EXT.P9 PHOTO COPYOF THE ORDER DATED 25.3.2006 ISSUED BY THE FIRST PETITIONER.

EXT.P10 PHOTOCOPY OF THE LIST OF STATMENT OF BILLS PENDING SANCTION BEFORE THE2ND RESPONDENT DATED 25.7.2006

EXT.P11 PHOTOCOPY OF INTERIM ORDER DATED 28.7.2006 IN WPC NO. 17499 OF 2006

EXT.P12 PHOTOCOPY OF INTERIM ORDER DATED 31.7.2006 IN WPC 20081 OF 2006

EXT.P13 PHOTOCOPY OF A COMMUNICATION OF THE RESPONDENT DATED 29.7.2006

EXT.P14 PHOTOCOPY OF INTERIM ORDER DATED 28.9.2006 IN WPC 20081 OF 2006

EXT.P15 PHOTOCOPY OF THE DETAILS OF THE BILLS PENDING SANCTION BEFORE THE 2ND RESPONDENT.

EXT.P16 PHOTOCOPY OF THE INTERIM ORDER DATED 17.10.2006 IN IA.NO. 13811 OF 2006 IN WPC 17499 OF 2006

RESPONDENTS' EXHIBITS: NIL

TRUE COPY

P.S. TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

W.P.C.NO. 17499, 20081 & 28164 OF 2006

Dated this the 30th day of January, 2007

JUDGMENT

The orders under challenge in the connected cases are issued by the University Appellate Tribunal based on Full Bench decision of this Court which stands overruled by the decision of the Supreme Court in MALANKARA SYRIAN CATHOLIC COLLEGE V. JOSE, (2007) 1 K.L.T. 22. In view of the present decision of the Supreme Court, minority managements are entitled to appoint Principals of their choice. Here the question whether the College is a minority institution or not is not an issue at all. Even if there is a dispute, the same has to be taken to the Government for their decision. It is stated that petitioner in WPC. No. 20081 of 2006 selected the fourth respondent as the new Principal of the College in preference to the third respondent, who is admittedly senior to the fourth respondent. Going by the decision of the Supreme Court, the Manager is entitled to appoint fourth respondent as Principal in preference to the third respondent. However, counsel for the third respondent submitted that Managing

Committee of the College has decided in his favour, which is disputed by the Manager. If the Manager does not represent the management, it is for the Managing Committee to remove him from that post. If his decision is also not approved by the Managing Committee, it is for them to take appropriate action to correct him. Dispute if any between the Manager and the Management is not an issue in these cases and if at all any such issue is there, it is to be settled in civil court. WPCs are therefore disposed of leaving freedom to the management to make appointment to the post of Principal based on the principle laid down in the decision of the Supreme Court. The impugned orders of the Tribunal are vacated for this purpose.

Issue photocopy today itself.

(C.N.RAMACHANDRAN NAIR)
Judge